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APR 04 2002

OFFICE OF PETITIONS

In re Application of :
Andrew F. Suhy, Jr., J. Aaron Bly, :
David P. Francis, John M. Melby, :
Patrick O'Brien, Brent Parent and :
Ryan J. Sherman :
Application No. 09/714,702 :
Filed: November 16, 2000 :
Title: APPARATUS AND METHOD FOR :
TRACKING AND MANAGING PHYSICAL :
ASSETS :

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the "Request for Reconsideration of
Petition under 37 CFR §1.47(a)," filed December 27, 2001.

The petition under 37 CFR §1.47(a) is **GRANTED**.

The above-identified application was filed on November 16, 2000, without an executed declaration, and naming Andrew F. Suhy, Jr., J. Aaron Bly, David P. Francis, John M. Melby, Patrick O'Brien, Brent Parent and Ryan J. Sherman as joint inventors. In response to a "Notice to File Missing Parts of Application," mailed February 20, 2001, applicant timely filed the initial petition under §1.47(a) (and fee) and late surcharge under §1.16(e). However, the petition was dismissed for failure to submit acceptable declarations in compliance with 35 U.S.C. §§115 and 116¹. A separate declaration executed by joint inventor Suhy did not identify all of the original, first and joint inventors. Additionally, it was unclear whether the declaration presented to non-signing inventor Parent was in compliance with 35 U.S.C. §§115 and 116 (Decision mailed September 28, 2001). This decision set a TWO-MONTH period for reply, with extensions obtainable under §1.136(a).

The instant request for reconsideration was made timely by an accompanying petition for a one-month extension of time. On renewed petition, rule 47 applicants state that at least one of the previous declarations submitted to non-signing inventor Parent included the signature block of every joint inventor; nonetheless, another such declaration was forwarded to inventor

¹ A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor either cannot be reached or found after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings and oath or declaration); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Parent on November 16, 2001; and inventor Parent orally acknowledged receipt of this declaration and reiterated his refusal to sign. Regarding inventor Suhy, applicants state that on November 16, 2001, a declaration identifying all joint inventors was sent to the inventor. By telephone message previously signing inventor Suhy acknowledged receipt of the declaration, but refused to execute the new declaration. Applicants request that either inventor Suhy's original declaration be accepted or that he now be considered a joint inventor who refuses to join in the application.

Having considered the evidence, it is concluded that applicants have shown that both inventors Parent and Suhy have refused to join in the application after having been presented with the application papers. The declaration filed April 23, 2001 is being accepted as executed by inventors Bly, Francis, Melby, O'Brien and Sherman on behalf of themselves and on behalf of non-signing inventors Parent and Suhy. The last known address of non-signing inventor Suhy is understood to be as stated in the declaration.

However, regarding this declaration, \$1.63(c) provides that:

Unless such information is supplied on an application data sheet in accordance with \$ 1.76, the oath or declaration must also identify:

- (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

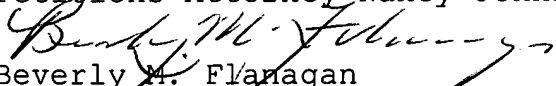
A review of the declaration reveals that it contains the residence, but not the mailing address of each of the inventors. No application data sheets have been submitted in this application. For purposes of compliance with \$1.63, the data entered as the residence is being construed as both the address where the inventor lives and the address where the inventor customarily receives mail, the mailing address. Applicant must notify the Office of Petitions if this interpretation is incorrect.

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Andrew F. Suhy, Jr.
1471 Indian Creek Drive
Perrysburg, OH 43551

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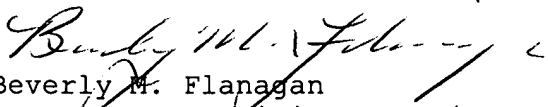
LETTER

Dear Mr. Suhy:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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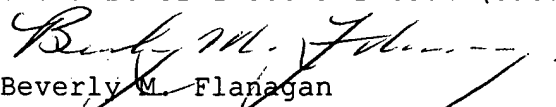
LETTER

Dear Mr. Parent:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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